

Town Council Meeting: 12 July 2010



Town of Garrett Park
PO Box 84
4600 Waverly Avenue
Garrett Park, MD 20896

Regular Meeting of Town Council
Garrett Park Town Hall
10814 Kenilworth Avenue
Garrett Park, MD 20896

MINUTES

Call to Order: Mayor Keller called the meeting to order at 8:04 PM. Present were Councilmembers Irons, Mandel, Petito, Schulp, and Wegner. Also present was Administrator Pratt and a number of Town residents.

Approval of Agenda: Councilmember Schulp asked that an executive session be held at the close of the regular meeting. Councilmember Irons asked that a resolution in support of the Garrett Park Climate Action Network (GPCAN) be added to the agenda. The agenda was approved as revised without objection.

Mayor's Report:

- Mayor Keller updated the Council on deed issues associated with the potential acquisition by the Town of the Garrett Park Estates Local Park, reporting that at its June 28th meeting the Board of Education (BOE) had voted to extinguish certain covenants on the 1948 deed given to the Parks Department, and to modify another, thereby allowing the Parks department to transfer clear title to the property to the Town. The BOE did ask for the right of first refusal after the Parks Department if the Town should wish to give up the property in the future. Mayor Keller noted that he would need to work on these rights of first refusal and if incorporated into the deed as proposed they could delay the Town's ability to dispose of the property for up to six months. The Mayor reported that he hoped to finalize the deed from the Parks Department to the Town soon.
- Mayor Keller reported that the Oxford St. Willow Oaks would be preserved, and that WSSC had agreed to develop a new plan for the installation of the valve chamber for the new water line to be installed in Oxford St. as part of the reconstruction of Garrett Park Elementary School.
- Mayor Keller appointed Councilmember Schulp to be acting Mayor over the upcoming weekend.
- Mayor Keller informed the Council that resident Donna Callejon would be working with him on pursuing Post Office issues - in particular, a request for restoration of counter hours and the provision for residents to collect parcels when the counter was closed.
- The Mayor reported that he attended the Maryland Municipal League Annual Conference and while there had taken the opportunity to speak with the Assistant Secretary of Transportation regarding the safety of students and

other pedestrians as they walk to new bus stops established for Garrett Park Elementary School students during the school's temporary relocation.

Councilmember's Reports on Areas of Responsibility:

- Councilmember Irons asked Suzanne Grefsheim, Chair of the Land Use Task Force, to present the Task Force's report to the Council. Ms. Grefsheim was joined by Task Force member John King, and together they presented the executive summary of the report (attached to these minutes). Ms. Grefsheim acknowledge the hard work of the Task Force membership. Councilmember Irons thanked the Task Force for its work. Mayor Keller noted that it was now up to the Council to take the Report, consider its recommendations, and begin the process of reviewing and amending the Town's Code of Ordinances, as appropriate. Former Mayor Carolyn Shawaker urged the Council to retain Town control over the permitting process, to consider retaining professional assistance for permit review and code enforcement, and to get directly involved in the current Montgomery County Zoning rewrite process. There was extended discussion on how the Town should engage in the County process, and it was the sense of the Council that the Mayor should contact the individual in charge of the County rewrite process, express the Town's interest in being involved, to discuss the nature of that involvement, and to report back to the Council.
- Councilmember Shulp reported that the Arboretum Committee had met, that resident Michael Spekter has been elected chair, and that the committee plans to meet again in September.

Approval of Minutes:

- Councilmember Petito **MOVED**
That the minutes of 06/14/2010 Regular Council Meeting be approved as amended. Councilmember Irons seconded the motion, which was **PASSED** unanimously.

Action/Discussion:

- Adoption of Ordinance 2010-03: Addition of Section 113 to the Garrett Park Code of Ordinances "Garrett Park Archives and Archives Committee" - Councilmember Schulp asked that the term of office for members of the Archives Committee be changed to three years. After brief discussion Councilmember Schulp **MOVED**
That Ordinance 2010-03 be adopted with the term of office for the members of the Archives Committee to be set at three years. Councilmember Wegner seconded the motion, which **PASSED** unanimously. (The adopted ordinance is attached to these minutes)
- Adoption of an Unlawful Harassment & Discrimination Policy - Mayor Keller noted that there had been significant input from the Council on the draft policy that had been circulated prior to the meeting, and recommended that development of the policy continue by email exchange and be approved prior to the September meeting. Councilmember Schulp **MOVED**

That the Council wished to adopt a policy on Unlawful Harassment & Discrimination and would work to reach agreement on the wording of that policy prior to the September meeting. The motion was seconded by Councilmember Wegner and **PASSED** unanimously.

- Councilmember Irons **MOVED**

That the Council adopt a resolution recognizing the work of GPCAN and supporting its nomination for the Bethesda Magazine Green Award. Councilmember Mandel seconded the motion, which **PASSED** unanimously. (A copy of the adopted resolution is attached to these minutes)

- Mayor Keller opened the two bids for the 1993 Chevrolet pickup truck that had been declared surplus. Mr. Reginald Hoffman of Rockville bid \$300, Mr. Elmer Ramirez of Gaithersburg bid \$350. The Mayor instructed Administrator Pratt to arrange the sale of the truck to the high bidder, Mr. Ramirez.

Town Administrator Report:

- Administrator Pratt reviewed the Monthly Financial Report and the preliminary FY 2010 End of Year Report with the Council

Executive Session: Mayor Keller then asked Councilmember Schulp if he still wished an Executive Session. After brief discussion, it was decided to continue the open meeting. Councilmembers Schulp and Petito briefed the Council on their ongoing lease negotiations with the Garrett Park Nursery School, and that another meeting was set for Thursday, July 15th. The Council discussed the possibility of setting up some form of escrow account to insure that the Town could complete necessary structural repairs to make the Community Center secure should the Nursery School be unable to proceed with the project. Councilmember Schulp indicated that the goal was to have a lease that could be acted upon at the September meeting, noting that a joint statement of intent to enter into a lease might be need prior to the meeting to allow the Nursery School access to the site.

Adjournment: The meeting was adjourned at 10:30 PM.

Respectfully Submitted,

[TOWN SEAL]

Edwin Pratt, Jr., Clerk-Treasurer

The Report of the Garrett Park Land Use Task Force

7/12/2010

Introduction

The Task Force affirms the principles that led to the passage of the Town's land use ordinance – preservation of the historic quality and character of Garrett Park and a desire to maintain control of its growth and development. However, the Task Force believes the existence of two distinct codes, the Town's Ordinances and Montgomery County's Overlay Zone for Garrett Park (the "Overlay Zone"), has created confusion and led to the breakdown of comity in the Town. To address these issues and provide the clarity desired by all Garrett Park citizens, the Task Force recommends as a first option amending the Overlay Zone to meet the Town's objective of preserving its unique, special character including open space, architectural diversity, and community oversight.

Further, should the Town Council accept these recommendations and choose to work with the County to amend the Overlay Zone, the Task Force recommends that the Council appoint a committee to work with representatives of the County to accomplish this. Since the County is in the process of revising the entire zoning code, the timing for such collaboration is propitious. The Task Force also recommends that the Council revise Town ordinances to remove any language that conflicts with or duplicates an appropriately amended Overlay Zone.

In addition to these overarching recommendations, this report addresses how and why the Overlay Zone should be amended to better achieve these objectives. For many of the recommendations we considered, the Task Force came to a clear consensus. For others, the convictions on both sides of the issue remain unchanged. The Task Force strongly urges the Council to accept and act on those recommendations for which there was clear consensus and support for the recommended changes.

The Task Force also looked at ways the Town may wish to improve its administrative oversight and control. These recommendations are offered for the Council's consideration.

There were aspects of its charge that the Task Force was not able to consider. These include encouraging homeowners to use green materials and reduce impervious surfaces. While the Task Force seemed to favor these actions, it did not have time to research and develop recommendations.

Appendices provide supplementary material to support or clarify the recommendations and or document the work product of the Task Force.

Recommended Amendments to the Montgomery County Overlay Zone for Garrett Park

It is a given that Garrett Park is a town of many opinions, and many of them strongly held. We on the Task Force are not recommending revolutionary changes to the current regulations in the Town's Code of Ordinances or in the County's Overlay Zone for Garrett Park. Rather, we identified areas of concern, areas where we could address the balance of individuals' needs with the desire to maintain the open and green space, the architectural diversity, and the existing housing that adds to the unique character that is Garrett Park.

We do recommend several specific changes to our land use rules, offer some ideas that will need further investigation, and make some procedural and administrative recommendations to ease management and add clarity.

Land Use Recommendations

We see no reason to change the current side and rear setbacks. To reduce confusion, we do recommend that the Town Ordinance on Lot Coverage, Section 402(b)(4), be changed to match the language in the Overlay Zone. Both have equivalent results, but the Town's ordinance is confusing. Both texts are included in Appendix II for comparison.

We recommend that additions and renovations to existing houses be allowed up to the existing front building line, so long as it's no closer than 25 feet from the Town's right of way. Many houses that were built under both A and R-60 zoning were built with a 25 foot front setback. Allowing additions and renovations up to the existing front wall, rather than restricting them to 30 feet back or further, will encourage renovation of existing homes, help maintain the Town's historic streetscape, and help protect mature trees that would be lost to demolitions.

For setbacks in general, the County has a list of "Exemptions for Projections", specific items that are allowed to cross a property's setback lines. For example, a bay window can extend 3 feet into the front setback and a chimney can jut 2 feet into a side setback. The appendices include the complete list of exemptions and their limits. At our request and on behalf of the Council, Suellen Ferguson, a property attorney with Council, Baradel, Kosmerl & Nolan, researched whether these exemptions applied in Garrett Park. Ms. Ferguson suggested two interpretations were possible, but the one she thought more apt was that by inference they were adopted by the Town. The Town is now permitting these exemptions - with the notable exception being the Town's greater restriction of covered porches. Other than porches, we recommend the Town explicitly recognize these exemptions in the Town's Ordinances. Ms. Ferguson's opinion is included in Appendix V, appended to the January 28 minutes.

We recommend that open porches added to existing houses may project up to, but no more than, 9 feet into the front setback, including the roof. This would apply only to existing homes; new homes would not be permitted porches that extend beyond the current 30 foot front setback. By adding the roof measurement, the actual size of a porch is unlikely to change much, since most porches are built with a roof overhang. This change would remove some differences between the County's and the Town's regulations, reducing confusion caused by their inconsistency.

We recommend that long, flat walls should include a visual break. Long, flat walls tend to make houses appear boxy, and lessen the architectural diversity in Town. The exemptions currently allow for a chimney to jut two feet into a side setback. To encourage aesthetic variety, we recommend the Town also permit a bay window or oriel to jut two feet into a side setback to meet this requirement.

We recommend additional areas for further investigation, areas where we lacked sufficient expertise but think the issues need addressing. In Montgomery County, Floor Area Ratio (FAR) is primarily a commercial tool, and is poorly defined for residential properties. We recommend working with the County to have the Overlay Zone include more appropriate residential definitions, which also may require revisiting the current .375 limit for FAR.

The Task Force was unable to reach a clear consensus on a recommendation for any single number for lot coverage, be it 18 percent or 20 percent or some other number, and note that no single number will fit the wide variety of lots in Town. Instead, we recommend the Town adopt a sliding scale for lot coverage. While we do not propose any specific numbers for this sliding scale, we have included an example, Appendix IV. Garrett Park's Ordinances currently recognize that small lots are a hardship, and include provisions which can allow for a variance. There is no equivalent recognition in the Overlay Zone, and County variances for small lots have become rare. A sliding scale could give a more balanced process for these owners.

Procedural and Administrative Recommendations

The members of the Task Force have been quite concerned that the permitting and building process in Garrett Park should be more open and clear. We have several recommendations addressing the administrative and regulatory process.

We recommend that the Town work towards amending the Overlay Zone to incorporate setback and lot coverage, while retaining land use authority granted by the State. Currently, residents must navigate two separate, inconsistent, and overlapping codes – the Town's Ordinances and the County's Code, which incorporates both R-90 and the Overlay Zone. The County has a much more extensive system to manage the process than does Garrett Park. To avoid conflicting land use regulations, we should work with the County to amend the Overlay Zone appropriately to meet our needs and then remove the affected portions of the Town Ordinance.

Towards this effort, we recommend the Town Council appoint a committee that will work with representatives of the County to draft the specific language for these Overlay Zone amendments.

If Garrett Park does transfer a substantial portion of the permitting process into the Overlay Zone, the Town may wish to consider retaining the services of a qualified individual to review permit applications for compliance with the Overlay Zone. This person, presumably an outside expert hired by the town, would communicate any concerns to the County, and ensure the County clearly understands those concerns. The position would not have regulatory authority or make binding determinations but rather would represent the Town's interests to the County, and assure applicants must follow only one permitting process, not two potentially conflicting or inconsistent ones.

The Town should require bonds be posted or fines levied to protect or restore Town trees, curbs, paving, etc., and to regulate and/or prohibit portable toilets, dumpsters, construction materials, temporary storage facilities, and mud carried from the construction site on any Town right of way. Builders shouldn't be excused from taking care of our Town.

The Town should post an ongoing list of all active town building permits on the Penn Place bulletin board and on the Town website. This would make it much easier for residents to be aware of proposed or ongoing work.

We found it difficult to collect and analyze permits and variance requests from prior years. We recommend the Town adapt a commercial software application for collecting, processing, and reporting permits in a clear and unambiguous way. This application should parallel the Town's permit workflow, and should have a web component available to the appropriate town members - the Council, staff, setback committee, historic preservation committee, etc. The system would collect permit information consistently over time, and could generate accurate and complete historical reporting.

The Town may wish to consider encouraging owner-built homes and additions and discourage the demolition of existing homes for new construction by speculative builders. One possible way to achieve this would be a limited property tax credit for living in a home newly built by the owner, and for the increased value of an addition newly built by the owner. This would drive a more personal stake in changes to the Town.

Our recommendations reflect a clear consensus of the Task Force, with many votes unanimous or near-unanimous. We strongly urge the Council to act on these recommendations. Our suggestions represent much closer votes, votes without a clear consensus, that the Council may wish to consider or investigate further. Appendix I includes a list of the full motions and votes recorded for all of the recommendations and suggestions we're proposing tonight.

Respectfully submitted,

Suzanne Grefsheim, Chair

Lizzie Glidden-Boyle

Kay Hager

Todd Harris

Ken Ingham

Barbara Jackson

Pat Keating

John King

Pam Morgan

Kevin Pope

Bob Reinhardt

Nancy Schwartz

Natalie Shelt

Ordinance 2010-03
Introduced: 06/14/2010
Adopted: 07/12/10

ORDINANCE 2010-03

Establishment of an Archives Committee

WHEREAS, For many years, documents, maps, pictures, memorabilia, and many other items have been given to or collected by the Town's Clerk-Treasurers; and

WHEREAS, This collection is now stored in a room in Penn Place that is named for Sybil Griffin, Clerk-Treasurer from 1965 through 1975, who began the effort to organize and preserve it; and

WHEREAS, Over the ensuing years both the Town government and a number of dedicated volunteers have encouraged residents to donate materials that depict life in Garrett Park, memorialize individual residents, document historic properties, and provide a record of various events and activities that have taken place in Garrett Park; and

WHEREAS, An oral history program was begun in the 1970's under the leadership of Joan Gurian and Barbara Shidler, and significant Town funds have been invested in obtaining, transcribing, and preserving recordings made by residents recounting their lives in Garrett Park, thus providing an invaluable source for historians and all residents; and

WHEREAS, Barbara Shidler became the Town's first Archivist in 2003, and upon her retirement in 2009, a committee was formed to make recommendations to the Town Council as to how best to manage the archives, preserve and expand the collection, and make the collection more accessible to the public while protecting its integrity; and

WHEREAS, The committee recommended to the Town Council in April of 2010 that the Garrett Park Archives Committee be formally established;

NOW, THEREFORE, the Town Council of Garrett Park, finding that it would be in the interest of the Town and its residents to formalize the establishment of the Town Archives and create an Archives Committee to advise the Council and the Town in the ongoing activities of the Archives, hereby adopts, under the authority granted to the Council by Section 78-17 of the Garrett Park Charter, the following Ordinance.

Section 113. Garrett Park Archives and Archives Committee

(a) Statement of Policy

(1) History. For many years, the Town, through its Clerk-Treasurers and interested residents, has collected documents, maps, pictures, memorabilia, and many other items relevant to the long and colorful history of the Town and its residents. The Town recognizes the unique resource that these materials provide and wishes to ensure their continued safekeeping, encourage their expansion, and make the collection more accessible to the public while protecting its integrity.

(2) Purpose. To formalize the establishment of the Garrett Park Town Archives and to organize the Garrett Park Archives Committee.

(b) The Garrett Park Town Archives

(1) There is hereby created the Garrett Park Town Archives, hereinafter known as the Archives.

(2) The Archives shall consist of documents, maps, pictures, memorabilia, and other items of an historic interest, as well as such public records that Maryland law requires the Town to preserve or that may be generated in the governance of the Town.

(c) The Committee

(1) There is hereby created a Garrett Park Archives Committee, to be named "The Barbara Shidler Archives Committee", hereinafter known as the Committee.

(2) The Committee shall consist of no more than seven (7) citizen members, the Clerk-Treasurer, and a member of the Council. The Mayor shall be an *ex officio* member of the Committee.

(3) The Mayor shall appoint, with the approval of the Council, members of the Committee from among Town residents who have lived in Garrett Park for at least one year and who are qualified by special interest, knowledge, experience or training in such fields as library science, records conservation, database compilation and maintenance, historic preservation, oral history, or complementary disciplines. If feasible, one member of the Archives Committee shall be drawn from the membership of the Historic Preservation Committee established by Section 400 of this Code. Members shall be appointed for a term of five years, except that in making initial appointments, some appointments shall be for less than five years so that no more than two (2) terms shall have simultaneous expiration dates. The Mayor shall appoint a Council member, and that

member's term on the Committee shall be concurrent with the member's Council term. Vacancies on the Committee that are created by the resignation or other discontinuation of a member prior to the expiration of the member's term shall be selected by the Mayor, with the advice and consent of the Council, for the unexpired term of the replaced member. A member may be removed for failure to attend meetings regularly or misconduct.

(4) The members of the Committee shall serve without compensation, but they may be reimbursed for actual expenses incurred in the performance of their duties, provided such expenses are approved by the Council.

(5) The Town shall provide in its annual budget such funds as may be required for the operation of the Committee.

(6) The Chair and Vice-Chair shall be elected by the members of the Committee. The Committee may adopt such procedural rules as may be necessary or appropriate for the conduct of its business. The Committee may create a category of adjunct Committee membership to be comprised of no more than three persons, not residents of Garrett Park, whose participation on the Committee, by virtue of academic, professional or other qualification in the fields specified in Section 113 (c)(3), above, benefits the Committee and Town.

(d) Powers of the Committee

(1) The Committee, in conformity with the policy set forth in this Section of the Code, shall advise the Council with respect to all issues involving or affecting the Town Archives.

(2) The Committee may, from time to time, undertake educational initiatives to advance the understanding and appreciation of the Archives and on other historical matters of general interest in the Town.

RESOLUTION

Recognizing the Accomplishments of the Garrett Park Climate Action Network

TOWN OF GARRETT PARK

WHEREAS, the Garrett Park Climate Action Network (GPCAN) was founded by a small group of five concerned residents in March of 2007 to help residents of Garrett Park and surrounding environs move toward “greener”, more sustainable ways of living; and

WHEREAS, the Garrett Park Climate Action Network has undertaken many significant initiatives to this end in its short history, such as:

- FIRST MEETING of GP CAN, March, 2007: In their first year, arranged for several speakers to come to our community Town Hall and make presentations on energy conservation, climate change, and related topics. All were very well attended, with over 50 people at each event.
- EARTH DAY (May 2008): Organized a large and wildly successful Earth Day celebration at our community Town Hall. Events included community teen-agers, middle-schoolers, and adults working together on events to sign up people for home energy audits, making jewelry, entering an earth-themed poster contest, promoting rainscapes gardens, distributing compost bins, displaying the energy costs of electronics and of water bottles, and selling the GP-CAN cloth bags. Also arranged for the school-aged helpers to get student learning service hours for their work on the Earth Day celebrations. Several 100 people participated.
- GP CAN REUSABLE SHOPPING BAGS (2008): Designed and sold 500 reusable cloth shopping bags with GP CAN logo on them.
- GARRETT PARK CONSERVATION TRUST ALLIANCE (Feb. 2009): Linked the Garrett Park Conservation Trust with the Conservation Action Network (CAN), thus blending our efforts to create a community that educates, motivates, and advocates for the protection and preservation of a verdant, sustainable community. The websites are now linked, and provide information on our actions, and on the actions that readers can take towards conserving energy and preserving green space.
- GREEN DAY (May 2009): Joined with the Town of Kensington for a “Green Day”. Collaborated by organizing a compost bin giveaway, a scrap metal collection for recycling, highlighted “locavore” food sources, advertised programs offering sustainable home energy, advertised our community Conservation Trust program for preserving green space, and distributed pamphlets with home energy saving ideas. Hundreds attended.
- WEBSITE (May 2009): Launched a website to document activities and provide an information resource: www.gpcan.org

- CONSERVATION IN ACTION TOUR (Oct. 2009): Tour showcased 15 local examples of sustainable living. Collected signups from attendees to provide follow-up information on energy retrofitting.
- RAINSCAPES (March, 2010): Organized a presentation in March on rainscapes, which was well attended by about 30 people. Since then at least two people have committed to installing raingardens through working with the County program.
- HOME ENERGY AUDITS (Spring 2010): Vetted energy audit firms, and distributed tax incentive and Pepco program highlights to local residents. Also established a mentoring program to encourage audits and retrofitting. So far, at least 12 homes have had energy audits, and nine of those have done or committed to do the energy-saving improvements recommended in the audit.
- CLEAN CURRENTS NEIGHBORHOOD CHALLENGE (as of July 2010): Already 21 of the 365 homes (6%) in Garrett Park have converted to sustainable energy through the Clean Currents neighborhood challenge program. There will be a "Green Thermometer" at the Post Office to track progress.

BE IT RESOLVED, that the Garrett Park Town Council, this the 12th day of July, 2010, in meeting assembled, unanimously and enthusiastically endorses the nomination of the Garrett Park Conservation Action Network for a 2010 Bethesda Magazine Green Award; and that the Town Council acknowledges and recognizes, with grateful appreciation, the work of GPCAN in bringing action, information and leadership to our residents and surrounding communities to encourage conservation of green space and living in a sustainable, energy-conscious community.

ATTEST

Edwin H. B. Pratt, Jr.
Clerk-Treasurer